

**IN THE COURT OF APPEALS OF TENNESSEE
EASTERN SECTION AT KNOXVILLE**

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| FILED February 21, 1997 GRAINGER CHANCERY Cecil Crowson, Jr. Appellate Court Clerk |
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| LINDA RUTH DALTON WELCH, |) | GRAINGER CHANCERY |
| |) | |
| Plaintiff/Appellee |) | |
| |) | CHESTER S. RAINWATER, JR. |
| v. |) | CHANCELLOR |
| |) | |
| GARY MITCHELL WELCH, |) | |
| |) | |
| Defendant/Appellant |) | DISMISSED |

Carl R. Ogle, Jr., Jefferson City, for the Appellant

Kelley Hinsley, Morristown, for the Appellee

OPINION

INMAN, Senior Judge

A final judgment was entered in this case on July 11, 1988.

A motion to reconsider was filed August 10, 1988. It remained dormant for eight years, and was denied June 25, 1996. The defendant filed a Notice of Appeal on July 24, 1996, from the Order denying the motion to reconsider.

The belated argument centers on the judgment awarding the residence to the plaintiff. The appellant argues that the trial judge failed to distinguish property distribution from *alimony in solido*. This legal nicety is not of paramount importance, given the rationale of the judgment, which directly centered on the finding that equitable considerations justified the award since the defendant through his lack of industry made little contribution to the purchase price of the residence.

But our concern focuses on a procedural facet of this case. A Notice of Appeal must be filed within 30 days after entry of judgment. TENN. R. APP. P., RULE 4(a). However, if a timely motion is filed (1) for a directed verdict, (2) to amend or make additional findings of fact, (3) for a new trial, or (4) to alter or amend the

judgment, the 30 days runs from the entry of the order adjudicating such motion.

TENN. R. APP. P., RULE 4(b).

A 'motion to reconsider' does not suspend the running of the 30-day period within which to file a Notice of Appeal. See, e.g., *State v. Lock*, 839 S.W.2d 436 (Tenn. Crim. App. 1992); *State v. Ryan*, 756 S.W.2d 284 (Tenn. Cr. App. 1988).

TENN. R. APP. P., RULE 59.01 provides that motions to reconsider are not authorized and will not operate to extend the time for appellate proceedings. See, *Daugherty v. Lumbermen's Underwriting Alliance*, 798 S.W.2d 754 (Tenn. 1990).

Moreover, the failure of an appellant to take any step other than the timely filing and service of a Notice of Appeal . . ."is ground only for such action as the appellate court deems appropriate which may include dismissal of the appeal."

The inordinate delay of eight years is attributed to a succession of attorneys and cannot be justified for any reason that comes to mind. For this reason the appeal is dismissed at the costs of the appellant.

William H. Inman, Senior Judge

CONCUR:

Houston M. Goddard, Presiding Judge

Herschel P. Franks, Judge

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| |) | |
| Defendant/Appellant |) | APPEAL DISMISSED |
| |) | REMANDED |

J U D G M E N T

This appeal came on to be heard upon the record from the Chancery Court of Grainger County and briefs filed on behalf of the respective parties. Upon consideration thereof, this Court is of the opinion that the trial court's Judgment from which this appeal was taken is not an appealable judgment.

It is therefore, ORDERED and ADJUDGED by this Court that this appeal is dismissed, with costs on appeal being assessed against the Appellant and its surety. This case is remanded for further proceedings not inconsistent with the Opinion of this Court and for collection of costs pursuant to applicable law.

PER CURIAM